IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.2.2005

CORAM:

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

WRIT PETITION NO.9136 OF 1997

The Management of
Rani Mangammal Transport,
The Management of Rani
Mangammal Transport Corporation Ltd.,
141, Station Road,
Dindigul - 624 003. .. Petitioner

Vs.

1.The Presiding Officer,
Industrial Tribunal,
City Civil Court, Madras.
2.The Workmen, rep. by
Secretary,
Rani Mangammal Pokkuvarathu
Thozilalar Sangam,
47, C.V.K.R.Patti,
Dindigul - 624 003. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari as stated therein.

For petitioner : Mr.S.Jayaraman

For respondent No.2: Mr.K.Elango

O R D E R

The petitioner has filed the above writ petition praying to issue a Writ of Certiorari to call for the records pertaining to the Award dated 29.11.1996 passed in I.D.No.90/1992 and to quash the same.

2. Today when the matter is taken up for consideration in the presence of the learned counsel for the petitioner and the learned counsel for the second respondent what comes to be known is that the petitioner corporation is a public transport

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corporation catering to the needs of the passenger traffic in and around the area of Dindigul; that the petitioner Corporation was formed on 1.4.1996 by bifurcating the erstwhile Pandian Roadways Corporation, that the petitioner Corporation has entered into settlement with the majority union with regard to wages, dearness allowance and other allowances etc., that the second respondent is not a major union at all and it has no representative capacity to espouse the cause of the workmen; that the second respondent, however, raised an industrial dispute claiming Hill Allowance in respect of the employees of Kumuli Branch; that the Government referred the following issue for adjudication:

> Whether the demand for payment of Hill allowance to the workers working in Kumuli Branch of Rani Mangammal Transport Corporation Ltd., is justified?

3. The further case of the petitioner is that the second respondent union filed claim statement stating that they have passed a resolution to claim 5% of basic salary as hill allowance for the workers employed in the petitioner Corporation's Branch Office at Kumili; that since the management did not agree for the same, they have raised the industrial dispute; that in the claim statement, they also referred to G.O.Ms.No.756 Labour and Employment Department dated 26.10.1977 wherein places viz., Kodaikanal, Periyar, Kuruvanuthu, Narayanathevanpatti and Sirumalai Village had been notified as hill stations and therefore they contended that the place Kumuli which is 3000 feet above Kuruvanuthu should also be construed as a hill station and they are entitled to the said hill allowance from 1.9.1986.

4. The petitioner further states that a settlement was entered into between the workmen of the State Transport Undertakings under Sec.12(3) of the Industrial Disputes Act on 25.9.1986 to which the second respondent union was also a signatory; that in the settlement there was no provision to pay hill allowance to the workers of the petitioner Corporation's Branch Office at Kumuli; that the second respondent union having accepted the settlement in toto cannot go back and claim hill allowance; that the employees in the Kumuli Branch did not satisfy the requirement as stipulated in the settlement for claiming hill allowance; that the place, Kumuli is less than 1000 meters above sea level and therefore, it cannot be construed as a hill station since the requirement as contemplated in the G.O. has not been satisfied; that the Tribunal held that that the employees of the Kumuli Branch are entitled to hill allowance at the rate of 5% of the basic salary from 29.8.1988 till 31.8.1995 and from 1.9.1995 to 31.12.1995 at the rate of 10% of basic salary; aggrieved by the aforesaid award, the petitioner has come forward to file the above Writ Petition.

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5. During arguments, learned counsel appearing for the petitioner reiterating the contents of the affidavit in support of the Writ Petition submits that the respondent-union has no locus standi to raise the dispute as it has no majority of the workmen and that the settlement dated 25.9.1986 will not allow the respondent union to raise the dispute. Further, the learned counsel submits that they have been paying hill allowance from 1.1.1996 onwards. The allegations of the respondent union that the employees employed in the Tamil Nadu Electricity Board, Kumuli are paid hill allowance and therefore, the petitioner employees should be given the same benefit, is a benefit of substance. It is submitted that so far as the employees of Transport Corporations are concerned, the payment of hill allowance is governed by the settlement entered into under Section 12(3) of the Industrial Disputes Act 1947. Moreover, the TNEB is a department of the Government of Tamil Nadu whereas the respondent corporation is an undertaking which is governed by the settlement entered into between the undertaking and their workmen. Therefore, the attempt of the petitioner to compare the employees of the TNEB is of no avail.

6. Further, seeking to quash the award passed by the Industrial Tribunal, the learned counsel would place reliance once again on various judgments which were placed before the Industrial Tribunal in support of his contention, which will only be a futile exercise and waste of the Court's time to extract the same here again.

7. Learned counsel appearing for the second respondent vehemently argues that the petitioner, having entered into the settlement with the respondent Union, cannot contend that respondent-union is a minority Union and it has no locus standi to raise the dispute; that further, when the settlement was entered into, the said claim was put forward before the petitioner, who contending that there was no G.O. including the place, Kumuli as hill area disagreed for the hill allowance even when the lower places to that of the Kumuli was covered for hill allowance and the other Government Departments were paying the said allowance for Kumuli. Subsequently, Kumuli was included as an hill area in the G.O.Ms.No.614, Finance (All.II) dtd. 29.8.1988; that when the Corporations of the Tamil Nadu Government viz., TNEB pays the hill allowance, the undertakings of the Tamil Nadu Government viz., the petitioner transport cannot deny the hill allowance to its employees since both the entities are under the control of the Tamil Nadu Government and hence the award passed by the Industrial Tribunal is sustainable and would pray to dismiss the Writ Petition.

8. In consideration of the materials placed on record, having regard to the facts and circumstances of the case and upon

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hearing the learned counsel for the petitioner as well as the second respondent, this Court does not find any irregularity or infirmity in the order of the Tribunal though some allegations were raised by the petitioner against the order of the Tribunal. The award passed by the Tribunal is a well considered one passed only after hearing both the parties before it and considering all the materials placed on record for perusal. Thus, this Court is of the view that the Writ Petition would only fail and hence the following order:

In result,

(i) the above Writ Petition fails and the same is dismissed;

(ii) the award dated 29.11.1996 passed in I.D.No.90/92 by the Industrial Tribunal, City Civil Court, Madras is confirmed.

(iii) however, there shall be no order as to costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

asvm

To

The Presiding Officer,
Industrial Tribunal,
City Civil Court, Madras.

+1cc to Mr.K.Elango Advocate Sr 7457

GM (CO)
km/24.3.

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